



CLERK, U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

**The following constitutes the ruling of the court and has the force and effect therein described.**

**Signed December 16, 2021**

  
**United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Reorganized Debtor.

MARC S. KIRSCHNER, AS LITIGATION TRUSTEE  
OF THE LITIGATION SUB-TRUST,

Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA; SCOTT  
ELLINGTON; ISAAC LEVENTON; GRANT JAMES  
SCOTT III; FRANK WATERHOUSE; STRAND  
ADVISORS, INC.; NEXPOINT ADVISORS, L.P.;  
HIGHLAND CAPITAL MANAGEMENT FUND  
ADVISORS, L.P.; DUGABOY INVESTMENT TRUST  
AND NANCY DONDERO, AS TRUSTEE OF

Chapter 11

Case No. 19-34054-sgj11

Adv. Pro. No. 21-03076-sgj

<sup>1</sup> The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

DUGABOY INVESTMENT TRUST; GET GOOD TRUST AND GRANT JAMES SCOTT III, AS TRUSTEE OF GET GOOD TRUST; HUNTER MOUNTAIN INVESTMENT TRUST; MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1 AND LAWRENCE TONOMURA AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1; MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; SAS ASSET RECOVERY, LTD.; AND CPCM, LLC,

Defendants.

### **ORDER APPROVING STIPULATION AND PROPOSED SCHEDULING ORDER**

Upon consideration of the *Stipulation and Proposed Scheduling Order* [Docket No. 21] (the “Scheduling Stipulation”),<sup>2</sup> by and among Marc S. Kirschner, as Litigation Trustee of the Litigation Sub-Trust (the “Trustee”), and James D. Dondero; Mark A. Okada; Scott Ellington; Isaac Leventon; Grant James Scott III; Frank Waterhouse; Strand Advisors, Inc.; NexPoint Advisors, L.P. Highland Capital Management Fund Advisors, L.P.; Dugaboy Investment Trust and Nancy Dondero, as Trustee of Dugaboy Investment Trust; Get Good Trust and Grant James Scott III, As Trustee of Get Good Trust; Hunter Mountain Investment Trust; Mark & Pamela Okada Family Trust – Exempt Trust #1 and Lawrence Tonomura, as Trustee of Mark & Pamela Okada Family Trust – Exempt Trust #1; Mark & Pamela Okada Family Trust – Exempt Trust #2 and Lawrence Tonomura, as Trustee of Mark & Pamela Okada Family Trust – Exempt Trust #2; CLO Holdco, Ltd.; Charitable DAF Holdco, Ltd.; Charitable DAF Fund, L.P.; Highland Dallas

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<sup>2</sup> Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Stipulation.

Foundation; Rand PE Fund I, LP, Series 1; Massand Capital, LLC; Massand Capital, Inc.; and CPCM, LLC (each, a “Defendant” and collectively, the “Defendants,” and with the Trustee, the “Parties”), it is **HEREBY ORDERED THAT:**

1. The Scheduling Stipulation, a copy of which is attached hereto as **Exhibit A**, is **APPROVED.**

2. The Scheduling Stipulation shall become effective immediately upon entry of this Order.

3. The Parties shall adhere to the following deadlines, as set forth in the Scheduling Stipulation:

<b>Event</b>	<b>Deadline</b>
Initial Case Conference (pursuant to FRCP 26(f) and FRBP 7026)	December 15, 2021
Pre-Discovery Disclosures (pursuant to FRCP 26(a) and FRBP 7026)	December 31, 2021
Substantial Completion of Fact Document Discovery	August 31, 2022
Start of Fact Depositions	Earlier of September 30, 2022 or decision on last outstanding motion to dismiss
Completion of Fact Depositions	December 30, 2022
Deadline to Exchange Names and Addresses of Experts and Expert Witness Reports	February 3, 2023
Deadline to Exchange Names and Addresses of Rebuttal Experts and Rebuttal Expert Witness Reports	March 31, 2023
Expert Discovery Closes	May 5, 2023
Dispositive Motion Deadline	June 2, 2023
Deadline to File a Response to Dispositive Motions	July 28, 2023
Deadline to File a Reply in Support of Dispositive Motions	August 25, 2023
Last Date For Hearings on Dispositive Motions (subject to the Court’s schedule)	September 15, 2023
Deadline to Exchange Expert and Witness Lists	September 22, 2023
Joint Pretrial Order Deadline	October 27, 2023
Written Proposed Findings of Fact and Conclusions of Law Deadline	October 27, 2023
Docket call	November 13, 2023 at 1:30 pm CT

4. The deadlines set forth in the Scheduling Stipulation shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

5. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Scheduling Stipulation and this Order.

###End of Order###

# EXHIBIT A

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Reorganized Debtor.

MARC S. KIRSCHNER, AS LITIGATION TRUSTEE  
OF THE LITIGATION SUB-TRUST,

Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA; SCOTT ELLINGTON; ISAAC LEVENTON; GRANT JAMES SCOTT III; FRANK WATERHOUSE; STRAND ADVISORS, INC.; NEXPOINT ADVISORS, L.P.; HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.; DUGABOY INVESTMENT TRUST AND NANCY DONDERO, AS TRUSTEE OF DUGABOY INVESTMENT TRUST; GET GOOD TRUST AND GRANT JAMES SCOTT III, AS TRUSTEE OF GET GOOD TRUST; HUNTER MOUNTAIN INVESTMENT TRUST; MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1 AND LAWRENCE TONOMURA AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1; MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; SAS ASSET RECOVERY, LTD.; AND CPCM, LLC,

Defendants.

Chapter 11

Case No. 19-34054-sgj11

Adv. Pro. No. 21-03076-sgj

STIPULATION AND PROPOSED  
SCHEDULING ORDER

<sup>1</sup> The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

**STIPULATION AND PROPOSED SCHEDULING ORDER**

This stipulation and proposed scheduling order (the “Stipulation”) is made and entered into, subject to Court approval, in the above-captioned adversary proceeding (the “Adversary Proceeding”) by and among Marc S. Kirschner, as Litigation Trustee of the Litigation Sub-Trust (the “Trustee”), and James D. Dondero; Mark A. Okada; Scott Ellington; Isaac Leventon; Grant James Scott III; Frank Waterhouse; Strand Advisors, Inc.; NexPoint Advisors, L.P. Highland Capital Management Fund Advisors, L.P.; Dugaboy Investment Trust and Nancy Dondero, as Trustee of Dugaboy Investment Trust; Get Good Trust and Grant James Scott III, As Trustee of Get Good Trust; Hunter Mountain Investment Trust; Mark & Pamela Okada Family Trust – Exempt Trust #1 and Lawrence Tonomura, as Trustee of Mark & Pamela Okada Family Trust – Exempt Trust #1; Mark & Pamela Okada Family Trust – Exempt Trust #2 and Lawrence Tonomura, as Trustee of Mark & Pamela Okada Family Trust – Exempt Trust #2; CLO Holdco, Ltd.; Charitable DAF Holdco, Ltd.; Charitable DAF Fund, L.P.; Highland Dallas Foundation; Rand PE Fund I, LP, Series 1; Massand Capital, LLC; Massand Capital, Inc.; and CPCM, LLC (each, a “Defendant” and collectively, the “Defendants,” and with the Trustee, the “Parties”), by and through their respective undersigned counsel. In support of the Stipulation, the Parties respectfully state as follows:

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. (“HCMLP”), filed a voluntary petition for relief under title 11 of the United States Code with the United States Bankruptcy Court for the District of Delaware. The case was subsequently transferred to the Bankruptcy Court for the Northern District of Texas, Dallas Division and captioned *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11;

WHEREAS, on February 22, 2021, the Court confirmed HCMLP’s *Fifth Amended Plan of Reorganization* [Docket No. 1943] (the “Plan”) which, among other things, established the

Litigation Sub-Trust (as defined in the Plan) for the benefit of the Claimant Trust Beneficiaries (as defined in the Plan).

WHEREAS, on October 15, 2021, the Trustee commenced the Adversary Proceeding by filing a complaint against Defendants [Docket No. 1] (the “Complaint”);

WHEREAS, on October 18, 2021, the Clerk of Court for the United States Bankruptcy Court for the Northern District of Texas issued the *Summons In An Adversary Proceeding* (the “Summons”) [Docket No. 3];

WHEREAS, on October 18, 2021, the Court entered the *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* (the “Order”) [Docket No. 4] which, among other things, sets forth an Alternative Scheduling Order that applies to the Adversary Proceeding “[i]f the [P]arties do not submit a proposed scheduling order or do not schedule a status conference with the Court to discuss the provisions and deadlines of a scheduling order within forty-five days of the filing of this [A]dversary [P]roceeding”;

WHEREAS, the Parties have entered into the initial response and briefing schedule set forth in the *Stipulation and Proposed Initial Response and Briefing Scheduling Order* [Docket No. 20];

WHEREAS, the Parties have met and conferred as to a proposed scheduling order, and have mutually agreed to the schedule as set forth below;

**NOW, THEREFORE**, it is hereby stipulated and agreed, and upon approval by the Court it shall be **SO ORDERED**:

1. Proposed Scheduling Order. The Parties agree to the following proposed scheduling order (the “Proposed Scheduling Order”):



<b>Event</b>	<b>Deadline</b>
Initial Case Conference (pursuant to FRCP 26(f) and FRBP 7026)	December 15, 2021
Pre-Discovery Disclosures (pursuant to FRCP 26(a) and FRBP 7026)	December 31, 2021
Substantial Completion of Fact Document Discovery	August 31, 2022
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Joint Pretrial Order Deadline	October 27, 2023
Written Proposed Findings of Fact and Conclusions of Law Deadline	October 27, 2023
Docket call	November 13, 2023

2. Pending approval of this Stipulation by the Court, each of the Parties agrees that it is and will be bound by this Stipulation and waives any right to object to approval by the Court. In the event that this Stipulation is not approved by the Court, it will be null and void and have no force or effect whatsoever except as may be otherwise agreed in writing by the Parties.

3. If approved by the Court, the Proposed Scheduling Order shall be modified only by a writing signed by all Parties or further order of the Court.

4. Neither agreement by the Parties or approval of this Stipulation by the Court shall be a waiver of Plaintiff's right to amend his complaint as a matter of course under Fed. R. Civ. P. 15 and Fed. R. Bankr. P. 7015 on or prior to April 19, 2022. In the event that Plaintiff amends his

complaint pursuant to this provision, the Parties will negotiate in good faith regarding an amended Proposed Scheduling Order.

5. Neither agreement by the Parties or approval of this Stipulation by the Court shall be a waiver of each Defendant's right to challenge the basis for jurisdiction of the Court in this case, or constitute a waiver of any other right or defense that may exist under applicable law. For the avoidance of doubt, the Parties' agreement to proceed with discovery pursuant to the terms of this Stipulation in parallel with motion practice shall not constitute a waiver of each Defendant's rights or defenses in any way, and all such rights and defenses are expressly reserved.

6. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of the Proposed Scheduling Order.

*[Remainder of Page Intentionally Left Blank]*

Dated: December 2, 2021

Respectfully submitted,

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